



Crl.O.P(MD).No.4142 of 2020

BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

Reserved On: 27.03.2023

Delivered On : 17.04.2023

CORAM:

THE HONOURABLE MRS. JUSTICE R.THARANI

Crl.O.P(MD).No.4142 of 2020

and

Crl.M.P.(MD)Nos.2280 and 2282 of 2020

Shajahan

...Petitioner

Vs

The State rep. By its
Inspector of Police,
Chinnalapatti Police Station,
Dindigul District.
(Crime No.158 of 2008)

...Respondent

PRAYER: Criminal Original Petition filed under Section 482 of the Code of Criminal Procedure, praying this Court to call for the records relating to the proceedings in C.C.No.413 of 2019 on the file of the learned District Munsif cum Judicial Magistrate, Athoor, Dindigul and quash the same and in so far as the petitioner is concerned.

For Petitioner
For Respondent

: Mr.K.Krishna
: Mr.M.Sakthi Kumar
Government Advocate (Crl. Side)

ORDER

This petition is filed to quash the chargesheet in C.C.No.413 of 2019 on the file of the District Munsif cum Judicial Magistrate, Athoor, Dindigul



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2.The case against the petitioner is that during patrolling on 10.10.2008, the petitioner and other two persons tried to run away from the police. A2 and A3 escaped from the police and on enquiring A1, he gave a confession that he was having Diwali crackers at his place and he is selling the same for the past seven years. A2 and A3 were manufacturing spurious drugs and shampoos. A1 was arrested and the machineries used for manufacturing spurious drugs and shampoos were seized by the respondent police. A case in Crime No.158 of 2008 was registered against the petitioner. After the filing of the chargesheet, a case was taken on file as C.C.No.241 of 2015 on the file of the learned Judicial Magistrate, Dindigul, and the same was transferred to the District Munsif cum Judicial Magistrate, Athoor and taken on file as C.C.No.413 of 2019.

3.On the side of the petitioner, it is stated that the petitioner has rented his premises to one Maheswaran, an agent from Pondichery who was using the premises to stock Shampoos and for using it as a godown. On 10.10.2008 at about 12.00 a.m., the petitioner was called by the police. In respond to the same, the petitioner went to the spot and he was beaten and he was compelled



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to sign some papers and then he was remanded to custody. After 11 days, he was released on bail. The chargesheet was filed after a lapse of 17 years and taking cognizance of case itself is wrong. List of machineries confiscated was not mentioned in the seizure report. Number of vicks action 500 tablets, or the Meera Herbal shampoo sachets or bottles were not mentioned in the seizure report. The petitioner was having valid licence to sell Diwali crackers and the copies of the licence was filed.

4.On the side of the petitioner, it is stated that Vijayakumar, Government Analyst has given a report wherein it is mentioned that the sample without any label cannot be compared with the standard products and he cannot give any opinion whether the products are spurious or not. The polythene pack that containing 100 of loose tablets without label is very easily available in the name of generic medicine. No strip label for the Vicks action 500 or any drug label was found at the crime spot. The Scientist Tara Kannan, Cavinkare Research Centre has given a statement that the sample sent for analysis is of standard quality. The company which owns the brand could not claim the standard quality.

5.On the side of the petitioner it is further stated that the petitioner is an



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income tax assessee and he has license to sell crackers and to keep possession of the crackers. The offence under Explosives Act was not made out and the offence under said Act is barred under Section 468 of Cr.P.C., since the chargesheet was filed only on 11.08.2015. The chargesheet under Section 420 of IPC is not maintainable and prayed the case is to be quashed.

6.On the side of the petitioner, it is further stated that no machineries was seized. Only due to some personal enmity between the then Inspector and the petitioner, a false case was foisted against the petitioner. A2 and A3 were still absconding. There is no trade mark.

7.On the side of the prosecution, it is stated that out of three accused, two escaped from the scene of occurrence. A1 was arrested and he gave a confession. The crackers shop is in some other place. The license for selling the crackers was obtained in the year 2010 and not before that, the license was given to store crackers in some other address not in the place of occurrence. There were duplicate products and illegal products of vicks action 500 tablets, meera herbal shampoo available in the premises and selling of duplicate products is an offence under Section 420 of IPC. There was no license for storing the crackers at the place of occurrence and during the time of



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occurrence.

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8.A perusal of the records reveals that the petitioner is having license to store the crackers which is effective from 01.04.2019 till 31.03.2020. On the side of the petitioner, it is stated that the original licence was granted in the year 1999 and the fact was mentioned in the renewed licence. It is seen that the licence No.7/98-99-I 5 was mentioned in the licence. The licence was renewed on 30.10.2010. The address given in the licence is No.5, Mariamman Kovil Complex, Dindigul. The alleged occurrence took place is Door No. 3/4-172, Annamalaiyar Mills Colony. There is no document to show that the petitioner was having licence on the date of occurrence i.e.on 10.10.2008. The licence from the year 1998-1999 till 2010 was not marked on the side of the petitioner. The address in the licence and the place of occurrence also differs.

9.In the above circumstance, the case requires a detailed trial and hence, this Criminal Original Petition is **dismissed**. Consequently, connected miscellaneous petitions are closed.

17.04.2023

NCC : Yes/No
Internet : Yes/No
Index : Yes/No
Mrn

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R. THARANI,J.

Mrn

To

- 1.The District Munsif cum Judicial Magistrate,
Athoor, Dindigul District.
- 2.The Additional Public Prosecutor,
Madurai Bench of Madras High Court, Madurai.

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